

Application No.: 09/904,516
Attorney Docket No.: 012237-0281573

REMARKS

The examiner has determined that, following Applicants election of August 23, 2003, a further election is required to identify the specific species for the following groups:

- R and R' as enumerated in claims 18, 19, and 24
- X and X' as enumerated in claims 18 and 25
- L, L', and L'' as enumerated in claims 18 and 26
- P and P' as enumerated in claims 18 and 27
- Y as enumerated in claims 18 and 28

In response, Applicants elect, with traverse, the following groups, which are exemplified in Example 1:

- R and R': a radical of $C_{18}H_{37}OH$
- X and X': a radical of methylene dicyclohexyl diisocyanate
- L, L', and L'': a radical of methylene dicyclohexyl diisocyanate
- P and P': a radical of N-methylethanolamine
- Y: a radical of polyethylene glycol

In view of this election, claims 18-21, 23, 26, 28, and 30-33 read on the elected species. If, after conducting a further search using the elected species, the examiner determines that the generic or linking claims are allowable, Applicants request that the examiner allow a reasonable number of species claims, such as those species recited in claims 22, 24, 25, and 27. See 37 C.F.R. § 1.141.

Applicants respectfully traverse this election-of-species requirement. An examiner may require Applicants to elect a species when an application contains generic claims. However, the examiner must make this requirement in the first action on the application containing the generic claim. See 37 C.F.R. § 1.146. The first action in this application was made on June 27, 2003, where the Office made a restriction/election requirement. Therefore, it is improper for the Office to make an additional requirement at this relatively late stage of the prosecution.

Additionally, the general purpose of an election-of-species requirement is to assist the examiner with the search. See MPEP § 809. In this case, a complete search has already been undertaken by the examiner. Therefore, the purpose of having Applicants elect a species has been obviated by the Office's progression of the prosecution of this application.

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Accordingly, for at least these reasons, Applicants believe this election-of-species requirement to be improper, unnecessary and respectfully traverse this requirement.

Respectfully submitted,
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Date: September 7, 2004

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